



Workhorse Group Inc.

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October 22, 2018

Heidi King
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

William Wehrum
Assistant Administrator
Office of Air and Radiation
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Major L. Clark
Acting Chief Counsel, Office of Advocacy
U.S. Small Business Administration
409 3rd St., SW
Washington, DC 20416

Re: Regulatory Flexibility Analysis for Proposed SAFE Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks (RIN 2127–AL76; RIN 2060–AU09)

Dear Deputy Administrator King, Assistant Administrator Wehrum and Acting Chief Counsel Clark:

I write with regard to the proposed Safer Affordable Fuel-Efficient Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks, 83 Fed. Reg. 42,986 (Aug. 24, 2018) (Light-Duty Vehicle Rule) jointly issued by the National Highway Traffic Safety Administration (NHTSA) and Environmental Protection Agency (EPA) – and specifically in relation to the proposal's approach to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

Workhorse Group Inc. (Workhorse) is a U.S. small business truck manufacturer headquartered in Ohio with a factory located in Indiana. Workhorse currently has approximately 125 employees, and all of those employees and operations are located within the United States. One of the vehicle models now under development by Workhorse will be subject to the NHTSA corporate average fuel economy (CAFE) standards and EPA greenhouse gas emission standards at issue in the proposed Light-Duty

Vehicle Rule. The W-15 is a plug-in range-extended electric drive pickup truck planned for production beginning in 2019.

Workhorse is a small business that will be affected by the proposed Light-Duty Vehicle Rule, but was not included in the agencies' list of small domestic vehicle manufacturers in the rule proposal, 83 Fed. Reg. at 43,476 or Preliminary Regulatory Impact Analysis at page 1619. Workhorse requests the opportunity to be consulted with regard to the rule.

Workhorse disagrees with the rationale for the agencies' determination that the Light-Duty Vehicle Rule will not have a significant impact on a significant number of small entities. That determination appears to be based solely on the conclusion that, while small entities may voluntarily participate in the regulatory program established by the rule, they are otherwise exempt from its requirements. Under EPA's current MY 2021-2025 standards, Workhorse would be eligible to generate credits by producing vehicles with lower GHG emissions than the standards. Under EPA's proposed revisions to those standards – which would substantially reduce their stringency – Workhorse's opportunity to earn credits would be substantially diminished. In addition, Workhorse will be eligible to earn credits under California's and other Clean Air Act Section 177 states' LEV III and ZEV programs. Under EPA's proposal to rescind the 2013 waiver of preemption of such standards, and NHTSA's proposed interpretation of the Energy Policy and Conservation Act to preempt such standards, Workhorse's opportunity to earn credits under existing and future state programs would be eliminated. These actions would have a significant adverse impact on Workhorse's business and Workhorse believes that the proposed rule similarly imposes adverse impacts other small entities that produce or will produce electric vehicles covered by the standards.

Accordingly, Workhorse urges NHTSA and EPA to prepare a regulatory flexibility analysis and to convene a small business review panel to assess the impacts in accordance with SBREFA, 5 U.S.C. 609(b). The analysis and panel must fully consider the impact of the proposed Rule on Workhorse and other small business manufacturers of electric vehicles and appropriately consider options that would eliminate or mitigate adverse impacts.

If you need any further information, please contact me at kevin.vincent@workhorse.com. Thank you for your attention to this matter.

Sincerely,

O. Kevin Vincent

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Vice President for Government, Regulatory and Safety Affairs
Workhorse Group Inc.